

WAGES

What are State Employment Taxes?

State employment taxes are Unemployment Insurance (UI), Employment Training Tax (ETT), State Disability Insurance (SDI) and Personal Income Tax (PIT) withholding.

Wages are subject to all employment taxes unless otherwise stated.

What are Wages?

“Wages” are payments made to an employee for his or her personal services, including commissions, bonuses, and the reasonable cash value of all remuneration paid to an employee in any medium other than cash (e.g., lodging and meals).

“Wages” include, but are not limited to, the following:

- Salaries, hourly pay, piece rate, or payments by the job.
- Commissions and bonuses.
- The reasonable cash value of compensation other than cash.
- Meals and lodging:
 1. Except that meals and lodging are not subject to PIT withholding when furnished on the employer's premises for the employer's convenience and in the case of lodging when it is furnished as a condition of employment.
 2. Special rules apply to domestic employers. See Information Sheet: Domestic Services (DE 231L) and Household Employer's Guide (DE 8829).
- Cash tips and gratuities of \$20 or more in a month which are included in a written statement furnished by the employee to the employer.
- Banquet tips and employer controlled tips are considered a regular wage and are fully taxable. The taxability of banquet tips and employer controlled tips is not contingent upon the employee reporting them to the employer.
- Group legal services which are provided by an employer to an employee or his or her spouse. Limited to annual premium value of \$70.
- Employer contributions, without payroll deduction, into a Golden State Scholarshare Trust account of an employee for the benefit of the employee or a designated beneficiary of the employee.
- Amounts in lieu of cash wages which are offset by the employer against a debt due from the employee or applied to a debt owed to a third party by the employee.
- Pension and retirement contributions made by employers unless the contributions are to a qualified plan.
- Sickness and accident payments except those made under workers' compensation law or those paid from employee funded plans. Sickness and accident payments paid six calendar months after the employee last worked for the employer, are excluded from UI, ETT and DI, but are subject to PIT withholding if the payments are the result of contributions made by the employer which were excluded from the worker's gross income or payments are paid by the employer.
- “Fringe benefits” provided or paid for by the employer on behalf of employees and their dependents such as:
 1. Company vehicles used by the employee to commute to and from work or for personal use.
 2. Sick pay paid by third party payers (e.g., insurance companies) is reportable for UI only.
 3. Sick pay paid by the employer.
- Any employer contributions under a qualified cash or deferred arrangement (Internal Revenue Code [IRC] Section 401[k]) which represent elective employee contributions. (PIT withholding is not required if payments are excludable from gross income for state income tax purposes.)
- Amounts deferred under a nonqualified deferred compensation plan (taxable when services are performed or when there is no substantial risk of forfeiture, whichever is later).
- Payments made by an employer without payroll deductions, of taxes required from employees for SDI and/or under the Federal Insurance Contributions Act (FICA). (Wages do not include payment of FICA without payroll deductions for domestic services or for agricultural labor.) See DE 231Q.

“Wages” does not include the following types of payments:

These types of wages are not subject to employment taxes unless otherwise stated.

- Payments to minor son or daughter under age 18 employed by parent (or by a partnership consisting only of parents); wife employed by husband or husband employed by wife; and parent employed by son or daughter. Payments are subject to PIT withholding.
- Repayment of required or necessary business expenses incurred by the employee while performing services for the employer (e.g., travel expenses).
- Insurance or annuity payments from a qualified plan to an employee for retirement. (Subject to PIT withholding unless the recipient elects exemption from withholding.)
- Sickness or accident disability payments made more than six calendar months following the last month in which the employee worked (subject to PIT withholding).
- Severance payments if the purpose is to supplement unemployment compensation benefits (subject to PIT withholding).
- Vacation or holiday pay earned but not paid prior to the termination of employment (subject to PIT withholding).
- Health insurance premiums or health care expenses paid by the employer on behalf of the employee or the employee's dependents. Employer paid premiums or expenses paid on behalf of an employee's domestic partner (as defined in Section 297 of the Family Code) would not be excluded from wages for UI, ETT, or DI purposes. However, the payments would not be subject for PIT purposes.
- Sickness or accident disability under a workers' compensation law.
- Moving expenses, if you reasonably believe the expenses are an allowable deduction to the employee under IRC Sections 217 and 132.
- Employee achievement awards, if it is reasonable to believe the amount is excludable from gross income under IRC Section 74(c).
- Scholarship payments or fellowship grants, if it is reasonable to believe the amount is excludable from gross income under IRC Section 117.
- Dependent care assistance programs, if it is reasonable to believe the amount is excludable from gross income under IRC Section 129.
- Payments from or to the following types of pension plans:
 1. Employer payments to a trust as defined under IRC Section 401(a).
 2. An annuity plan as defined under IRC Section 403(a).
 3. A simplified employee pension plan (SEP-IRA) unless made as a result of a salary reduction

agreement. (Not subject to PIT if excludable from gross income.)

4. An annuity contract as defined under IRC Section 403(b) unless made as a result of a salary reduction agreement. (Not subject to PIT if excluded from gross income.)
 5. An exempt governmental deferred compensation plan as defined in IRC Section 3121(v)(3).
- Employee payroll deductions made under a cafeteria plan that follows the provisions of Section 125 of the IRC made for the following purposes:

Medical insurance	Insurance for long-term
Dental insurance	disability
Vision insurance	Dependent care assistance
Life insurance	Reimbursement of medical or hospital expenses
 - Fees paid to a director of a corporation when performing services in the capacity of a director as defined in California Unemployment Insurance Code (CUIC) Section 622(b) are not considered wages. Payments for services not performed in the capacity of a director as defined in CUIC Section 622(c) may be considered wages.
 - Back pay awarded to an employee because the employer failed to comply with the Worker Adjustment and Retraining Notification (WARN) Act. Payments are subject to PIT withholding.

Should Wages be Included on a Report When Paid or Earned?

For reporting purposes, wages are taxable when paid, or constructively paid, or when an employee receives remuneration other than cash. Wages are constructively paid when they are credited to the account of or set apart for an employee so that they may be drawn at any time, although not then actually reduced to his or her possession. All UI or DI benefits paid to an individual are based upon the amount of wages paid during the quarter within the designated base period in which his or her wages were the highest. For this reason, it is important to properly report wages when paid or constructively paid to an employee.

When filing your DE 6, Quarterly Wage and Withholding Report, with the Employment Development Department, you must furnish for each worker the employee's social security number, his or her name, the total wages subject to UI and DI paid to the employee in the quarter, and the amount of wages subject to California PIT as well as the amount of PIT withheld for each individual.

Wages due to an employee within the time required by law, if still unpaid at the time the DE 6, Quarterly Wage and Withholding Report, is due, should be included on a separate DE 6 under the caption “Wages Legally Due But Unpaid.” Individuals are entitled to UI or DI benefits on these wages. PIT withholding on such wages should be reported on the DE 6 for the quarter in which the wages are actually paid. UI, ETT, DI contributions and PIT withholding should be paid with the DE 88 due when the wages are actually paid.

Equal Opportunity Employer/Program. Auxiliary services and assistance available to persons with disabilities.